In the High Court of Judicature for Rajasthan
Jaipur Bench
**
Cr. Msc. Petition No.2198/2007
Shantnu Soni & (3) Ors.
Versus State & Minu Soni

Date of Order ::: 12/12/07

Hon'ble Mr. Justice Ajay Rastogi

Mr. Ravi Yadav, for petitioners
Mr. Ajit S.Lunia, for respondent No.2
Mr. Arun Sharma, Public Prosecutor

Instant petition U/s 482, CrPC has been filed for quashing of FIR-32/05 lodged at PS Mahila (North), Jaipur for offences U/Ss 498-A, & 406, IPC, for which petitioners are facing trial in Cr.Case No.648/07 before Judl. Mag. No.6, Jaipur City despite compromise being arrived at between the parties but not permitted vide order dt.06/12/07 while learned trial Magistrate discharged the petitioners of offence U/s 323, IPC being compoundable U/s 320, CrPC.

Complainant (Minu) and petitioner NO.1 (Vinay Bansal) had filed joint application U/s 13-B of Hindu Marriage, Act, 1955 for decree of divorce on mutual consent whereby the spouse mutually agreed inter-alia that in the complaint filed by her pending trial for offences U/Ss 498-A, & 406, IPC she will file separate application to withdraw criminal

complaint with a view to discontinue proceedings pending against petitioners before trial Magistrate on the premise that compromise has been arrived at between them in pursuance whereof, joint application was filed on 06/12/07 with a request not to prosecute the proceedings any further, but the same was dismissed vide order dt.06/12/07 (Ann.4) on the premise that offences alleged are not compoundable U/s 320, CrPC. Hence they have approached this Court by instant petition.

The parties (spouse) who are duly represented by their counsel, are present in person today and both have jointly particularly complainant requested that they have settled their disputes and she does not want to pursue the matter any further. Their joint application dt.06/12/07 (Ann.3) and so also copy of their application seeking decree for dissolution of marriage on the basis of compromise arrived at between them (Ann.1) have been placed on record before this Court.

Counsel further placed reliance upon the decision of Apex Court in **B.S.Joshi Vs. State of Haryana (AIR 2003 SC 1386),** wherein it has been observed that in cases where compromise has been arrived at among spouse, matrimonial litigation should not be encouraged and High Court should

exercise inherent powers U/s 482, CrPC. Apex Court observed as infra:

> "The hyper technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of Indian Penal Code."

Even in either circumstances, as well, Apex Court in **Ruchi Agawal Vs. Amit Agrawal (2005(3) SCC 299)**, observed ad infra:

> "Therefore, we of the opinion that the appellant having received the relief she wanted without contest on the basis of terms of the compromise, we cannot now accept the argument of the learned counsel for the appellant. In our opinion, the conduct of the appellant indicates that the criminal complaint from which this appeal arises was filed by the wife only to harass the respondents."

In matrimonial litigations arising out of family disputes, once the parties have arrived at amicable settlement and compromise, it is otherwise not in the interest of parties to prosecute the matter any further otherwise it may result in bitterness among

their relations, which can never be legislative intent.

Thus viewed, in light of statement made by Counsel representing their respective parties on having agreed to by virtue of compromise produced before the trial Court, this Court is of the opinion that no purpose will be served to proceed further in the trial.

Consequently, misc. petition is allowed. In view of compromise arrived at between petitioners & respondent No.2, their prayer is allowed and the proceedings pending before Judl. Mag. No.6, Jaipur City against petitioners in Cr.Case No.648/07 arising out of FIR-32/05 lodged at PS Mahila (North), Jaipur city for offences U/Ss 498-A, & 406, IPC, are hereby quashed & set aside. A copy of this order be sent to the trial Court.

(**Ajay Rastogi), J.**

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